

DRAFT

Serial No.: 10/802,994

- 9 -

Art Unit: 3754

REMARKS

Claims 1-24 were previously pending in this application. By this amendment, claims 23-24 have been amended. As a result claims 1-24 are pending for examination with claims 1, 23, and 24 being independent claims. No new matter has been added.

Double Patenting Rejection

Claims 1-23 were rejected under the judicially created doctrine of double-patenting over claims 1-2 and 14-23 of U.S. Patent No. 6,755,208. Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Patent No. 6,755,208 in compliance with 37 C.F.R. 1.321(c) to overcome this rejection. In view of this Terminal Disclaimer, claims 1-23 are believed to be in allowable condition.

Rejections Under 35 U.S.C. §102

The Office Action rejected claim 24 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,550,749 to Krikorian (hereinafter Krikorian).

Krikorian discloses a check (one way) valve with the valve normally biased in the sealed configuration. The valve includes an elastomeric disk 16 and a disk support 18 that supports the elastomeric disk in the sealed position. The elastomeric disk and disk support 18 are configured such that some fluid cracking pressure on the inlet side of the disk is needed to bias the elastomeric disk away from the seating surface to unseat and unseal the valve. The valve will normally be closed to the sealed condition with no pressure differential across the valve, but once the cracking pressure is reached, the seal is disrupted and the fluid will flow through the valve.

Claim 24 recites a valve that comprises, inter alia, a support member that biases the diaphragm in a closed position that does not have to be a sealed condition, and that facilitates movement of the diaphragm against that valve seat to a sealed position so as to seal the fluid conduit when there is sufficient fluid pressure against the second side of the diaphragm, and that also facilitates movement of the diaphragm to an open position when there is sufficient fluid pressure against the first side of the diaphragm. Krikorian doesn't disclose a support member that biases the elastomeric disk in a closed but not sealed position proximate the valve seat, and that can be moved to a sealed position with sufficient fluid pressure against the second side of

756457.1

DRAFT

Serial No.: 10/802,994

- 10 -

Art Unit: 3754

the diaphragm. In Krikorian, the elastomeric disk is held by the disk support 18 in a sealed position. Krikorian does not disclose biasing the diaphragm into the sealed position with sufficient fluid pressure on the second side of the diaphragm, as is recited in claim 24. In contrast, Krikorian discloses that the elastomeric disk is biased to the sealed condition and that a sufficient fluid pressure is needed to crack the seal of the check valve to move the valve from the sealed position to an open position.

Accordingly, independent claim 24 patentability distinguishes over Krikorian and withdrawal of this rejection of claim 24 is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,

Robert B. Chaffee, Applicant

By: _____
John N. Anastasi, Reg. No. 37,765
LOWRIE, LANDO & ANASTASI, LLP
One Main Street
Cambridge, Massachusetts 02142
United States of America
Telephone: 617-395-7000
Facsimile: 617-395-7070

Docket No.: C0852-703122

Date: April ____, 2005

756457.1